

RESOLUTION 2018-XX

MOTION BY MEMBER:

SECONDED BY MEMBER:

A RESOLUTION ADDRESSING THE MAYOR'S SOCIAL MEDIA

WHEREAS, Mayor Thomas Funk has established, manages or maintains certain social media including a Facebook page known as "Victoria Residents First," and;

WHEREAS, the Mayor has previously maintained other social media including a webpage of the same name, and;

WHEREAS, the Mayor's social media could be misconstrued as having been created, maintained or endorsed by the City because the Mayor purportedly communicates on such social media in his capacity as the Mayor of the City of Victoria;

WHEREAS, the Mayor routinely makes "posts" to his social media and communicates via such social media purportedly in his capacity as Mayor, and

WHEREAS, posts and replies to posts on the Mayor's social media specifically refer to him as "Mayor" including, for example, the most recent posts to "Victoria Residents First" originating with a message from the Mayor on November 2, 2018, and;

WHEREAS, the City has received one or more data practices act requests seeking data associated with the Mayor's social media, and;

WHEREAS, the Mayor's social media could result in legal issues, claims or suits, and;

WHEREAS, Minnesota Statutes, Section 466.07, subd. 1 (Indemnification required) provides:

Subject to the limitations in section 466.04, a municipality or an instrumentality of a municipality shall defend and indemnify any of its officers and employees, whether elective or appointive, for damages, including punitive damages, claimed or levied against the officer or employee, provided that the officer or employee:

- (1) was acting in the performance of the duties of the position; and
- (2) was not guilty of malfeasance in office, willful neglect of duty, or bad faith.

WHEREAS, the Mayor's Facebook page and other social media have not been created, maintained or endorsed by the City, and;

WHEREAS, the Mayor's establishment of social media and his communications on such social media have not been authorized by the city council, and;

*City of Victoria
County of Carver
State of Minnesota*

WHEREAS, the Mayor's participation in social media is not action taken in the performance of his duties as Mayor.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Victoria, Minnesota as follows:

1. The Recitals set forth above are the findings and conclusions of the city council.
2. The Mayor shall be responsible for any claims, suits or liability arising out of his social media. Pursuant to Minnesota Statutes, Section 466.07, the City will not defend and indemnify the Mayor for legal matters arising out of his social media.
3. The Mayor shall be responsible for any data practices act compliance arising out of his social media. Any "government data" created or maintained therein is not under the City's control.
4. The Interim City Manager and City Attorney are authorized to take all necessary further action to implement this Resolution.

Councilmember	Aye	Nay	Abstain	Absent
Tom Funk				
Jim Crowley				
Tom Gregory				
Tom Strigel				
Tom Vogt				

Adopted this 26th day of November, 2018.

Thomas C. Funk, Mayor

ATTEST:

Doug Reeder, Interim City Manager